

FIRST REGULAR SESSION  
[PERFECTED]  
HOUSE COMMITTEE SUBSTITUTE FOR  
**HOUSE BILL NOS. 404 & 614**  
**97TH GENERAL ASSEMBLY**

1299L.03P

D. ADAM CRUMBLISS, Chief Clerk

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**AN ACT**

To repeal sections 287.067 and 287.243, RSMo, and to enact in lieu thereof two new sections relating to workers' compensation.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Sections 287.067 and 287.243, RSMo, are repealed and two new sections  
2 enacted in lieu thereof, to be known as sections 287.067 and 287.243, to read as follows:

287.067. 1. In this chapter the term "occupational disease" is hereby defined to mean,  
2 unless a different meaning is clearly indicated by the context, an identifiable disease arising with  
3 or without human fault out of and in the course of the employment. Ordinary diseases of life to  
4 which the general public is exposed outside of the employment shall not be compensable, except  
5 where the diseases follow as an incident of an occupational disease as defined in this section.  
6 The disease need not to have been foreseen or expected but after its contraction it must appear  
7 to have had its origin in a risk connected with the employment and to have flowed from that  
8 source as a rational consequence.

9 2. An injury by occupational disease is compensable only if the occupational exposure  
10 was the prevailing factor in causing both the resulting medical condition and disability. The  
11 "prevailing factor" is defined to be the primary factor, in relation to any other factor, causing both  
12 the resulting medical condition and disability. Ordinary, gradual deterioration, or progressive  
13 degeneration of the body caused by aging or by the normal activities of day-to-day living shall  
14 not be compensable.

15 3. An injury due to repetitive motion is recognized as an occupational disease for  
16 purposes of this chapter. An occupational disease due to repetitive motion is compensable only  
17 if the occupational exposure was the prevailing factor in causing both the resulting medical

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18 condition and disability. The "prevailing factor" is defined to be the primary factor, in relation  
19 to any other factor, causing both the resulting medical condition and disability. Ordinary,  
20 gradual deterioration, or progressive degeneration of the body caused by aging or by the normal  
21 activities of day-to-day living shall not be compensable.

22 4. "Loss of hearing due to industrial noise" is recognized as an occupational disease for  
23 purposes of this chapter and is hereby defined to be a loss of hearing in one or both ears due to  
24 prolonged exposure to harmful noise in employment. "Harmful noise" means sound capable of  
25 producing occupational deafness.

26 5. "Radiation disability" is recognized as an occupational disease for purposes of this  
27 chapter and is hereby defined to be that disability due to radioactive properties or substances or  
28 to Roentgen rays (X-rays) or exposure to ionizing radiation caused by any process involving the  
29 use of or direct contact with radium or radioactive properties or substances or the use of or direct  
30 exposure to Roentgen rays (X-rays) or ionizing radiation.

31 6. Disease of the lungs or respiratory tract, hypotension, hypertension, or disease of the  
32 heart or cardiovascular system, including carcinoma, may be recognized as occupational diseases  
33 for the purposes of this chapter and are defined to be disability due to exposure to smoke, gases,  
34 carcinogens, inadequate oxygen, of paid firefighters of a paid fire department or paid police  
35 officers of a paid police department certified under chapter 590 if a direct causal relationship is  
36 established, or psychological stress of firefighters of a paid fire department **or paid peace**  
37 **officers of a police department who are certified under chapter 590** if a direct causal  
38 relationship is established.

39 7. Any employee who is exposed to and contracts any contagious or communicable  
40 disease arising out of and in the course of his or her employment shall be eligible for benefits  
41 under this chapter as an occupational disease.

42 8. With regard to occupational disease due to repetitive motion, if the exposure to the  
43 repetitive motion which is found to be the cause of the injury is for a period of less than three  
44 months and the evidence demonstrates that the exposure to the repetitive motion with the  
45 immediate prior employer was the prevailing factor in causing the injury, the prior employer  
46 shall be liable for such occupational disease.

287.243. 1. This section shall be known and may be cited as the "Line of Duty  
2 Compensation Act".

3 2. As used in this section, unless otherwise provided, the following words shall mean:

4 (1) "Air ambulance pilot", a person certified as an air ambulance pilot in accordance with  
5 sections 190.001 to 190.245 and corresponding regulations applicable to air ambulances adopted  
6 by the department of health and senior services, division of regulation and licensure, 19 CSR 30-  
7 40.005, et seq.;

8           (2) "Air ambulance registered professional nurse", a person licensed as a registered  
9 professional nurse in accordance with sections 335.011 to 335.096 and corresponding regulations  
10 adopted by the state board of nursing, 20 CSR 2200-4, et seq., who provides registered  
11 professional nursing services as a flight nurse in conjunction with an air ambulance program that  
12 is certified in accordance with sections 190.001 to 190.245 and the corresponding regulations  
13 applicable to such programs;

14           (3) "Emergency medical technician", a person licensed in emergency medical care in  
15 accordance with standards prescribed by sections 190.001 to 190.245 and by rules adopted by  
16 the department of health and senior services under sections 190.001 to 190.245;

17           (4) "Firefighter", any person, including a volunteer firefighter, employed by the state or  
18 a local governmental entity as an employer defined under subsection 1 of section 287.030, or  
19 otherwise serving as a member or officer of a fire department either for the purpose of the  
20 prevention or control of fire or the underwater recovery of drowning victims;

21           (5) "Killed in the line of duty", when [a person defined in this section] **any law**  
22 **enforcement officer, emergency medical technician, air ambulance pilot, air ambulance**  
23 **registered professional nurse, paramedic, or firefighter** loses [one's] **his or her** life as a result  
24 of an injury received in the active performance of [his or her duties within the ordinary scope of]  
25 **duties in** his or her respective profession [while the individual is on duty and but for the  
26 individual's performance, death would have not occurred] , **if the death occurs as a natural and**  
27 **probable consequence of the injury or disease caused by the accident or violence of another**  
28 **within three hundred weeks from the date the injury was received and if that injury arose**  
29 **from violence of another or accidental cause subject to the provisions of this subdivision.**  
30 The term excludes death resulting from the willful misconduct or intoxication of the law  
31 enforcement officer, emergency medical technician, air ambulance pilot, air ambulance  
32 registered professional nurse, **paramedic**, or firefighter. The division of workers' compensation  
33 shall have the burden of proving such willful misconduct or intoxication. **For law enforcement**  
34 **officers, emergency medical technicians, air ambulance pilots, air ambulance registered**  
35 **professional nurses, paramedics, and firefighters, the term shall include the death caused**  
36 **as a result of a willful act of violence committed by a person other than the officer,**  
37 **emergency medical technician, air ambulance pilot, air ambulance registered professional**  
38 **nurse, paramedic, or firefighter, and a relationship exists between the commission of such**  
39 **act and the individual's performance of his or her duties as a law enforcement officer,**  
40 **emergency medical technician, air ambulance pilot, air ambulance registered professional**  
41 **nurse, paramedic, or firefighter, regardless of whether the injury is received while the**  
42 **individual is on duty; or the injury is received by a law enforcement officer while he or she**  
43 **is attempting to prevent the commission of a criminal act of another person or attempting**

44 **to apprehend an individual suspected of committing a crime, regardless of whether the**  
45 **injury is received while the individual is on duty as a law enforcement officer; or the injury**  
46 **is received by the individual while traveling to or from his or her employment or during**  
47 **any meal break, or other break, which takes place during the period in which the law**  
48 **enforcement officer, air ambulance pilot, air ambulance registered professional nurse,**  
49 **emergency medical technician, paramedic, or firefighter, is on duty;**

50 (6) "Law enforcement officer", any person employed by the state or a local governmental  
51 entity as a police officer, peace officer certified under chapter 590, or serving as an auxiliary  
52 police officer or in some like position involving the enforcement of the law and protection of the  
53 public interest at the risk of that person's life;

54 (7) "Local governmental entity", includes counties, municipalities, townships, board or  
55 other political subdivision, cities under special charter, or under the commission form of  
56 government, fire protection districts, ambulance districts, and municipal corporations;

57 (8) "State", the state of Missouri and its departments, divisions, boards, bureaus,  
58 commissions, authorities, and colleges and universities;

59 (9) "Volunteer firefighter", a person having principal employment other than as a  
60 firefighter, but who is carried on the rolls of a regularly constituted fire department either for the  
61 purpose of the prevention or control of fire or the underwater recovery of drowning victims, the  
62 members of which are under the jurisdiction of the corporate authorities of a city, village,  
63 incorporated town, or fire protection district. Volunteer firefighter shall not mean an individual  
64 who volunteers assistance without being regularly enrolled as a firefighter.

65 3. (1) A claim for compensation under this section shall be filed by the estate of the  
66 deceased with the division of workers' compensation not later than one year from the date of  
67 death of a law enforcement officer, emergency medical technician, air ambulance pilot, air  
68 ambulance registered professional nurse, or firefighter. If a claim is made within one year of the  
69 date of death of a law enforcement officer, emergency medical technician, air ambulance pilot,  
70 air ambulance registered professional nurse, or firefighter killed in the line of duty, compensation  
71 shall be paid, if the division finds that the claimant is entitled to compensation under this section.

72 (2) The amount of compensation paid to the claimant shall be twenty-five thousand  
73 dollars, subject to appropriation, for death occurring on or after June 19, 2009.

74 4. Notwithstanding subsection 3 of this section, no compensation is payable under this  
75 section unless a claim is filed within the time specified under this section setting forth:

76 (1) The name, address, and title or designation of the position in which the law  
77 enforcement officer, emergency medical technician, air ambulance pilot, air ambulance  
78 registered professional nurse, or firefighter was serving at the time of his or her death;

79 (2) The name and address of the claimant;

80 (3) A full, factual account of the circumstances resulting in or the course of events  
81 causing the death at issue; and

82 (4) Such other information that is reasonably required by the division.

83 When a claim is filed, the division of workers' compensation shall make an investigation for  
84 substantiation of matters set forth in the application.

85 5. The compensation provided for under this section is in addition to, and not exclusive  
86 of, any pension rights, death benefits, or other compensation the claimant may otherwise be  
87 entitled to by law.

88 6. Neither employers nor workers' compensation insurers shall have subrogation rights  
89 against any compensation awarded for claims under this section. Such compensation shall not  
90 be assignable, shall be exempt from attachment, garnishment, and execution, and shall not be  
91 subject to setoff or counterclaim, or be in any way liable for any debt, except that the division  
92 or commission may allow as lien on the compensation, reasonable attorney's fees for services in  
93 connection with the proceedings for compensation if the services are found to be necessary.  
94 Such fees are subject to regulation as set forth in section 287.260.

95 7. Any person seeking compensation under this section who is aggrieved by the decision  
96 of the division of workers' compensation regarding his or her compensation claim, may make  
97 application for a hearing as provided in section 287.450. The procedures applicable to the  
98 processing of such hearings and determinations shall be those established by this chapter.  
99 Decisions of the administrative law judge under this section shall be binding, subject to review  
100 by either party under the provisions of section 287.480.

101 8. Pursuant to section 23.253 of the Missouri sunset act:

102 (1) The provisions of the new program authorized under this section shall automatically  
103 sunset six years after June 19, 2009, unless reauthorized by an act of the general assembly; and

104 (2) If such program is reauthorized, the program authorized under this section shall  
105 automatically sunset twelve years after the effective date of the reauthorization of this section;  
106 and

107 (3) This section shall terminate on September first of the calendar year immediately  
108 following the calendar year in which the program authorized under this section is sunset.

109 9. The provisions of this section, unless specified, shall not be subject to other provisions  
110 of this chapter.

111 10. There is hereby created in the state treasury the "Line of Duty Compensation Fund",  
112 which shall consist of moneys appropriated to the fund and any voluntary contributions, gifts,  
113 or bequests to the fund. The state treasurer shall be custodian of the fund and shall approve  
114 disbursements from the fund in accordance with sections 30.170 and 30.180. Upon  
115 appropriation, money in the fund shall be used solely for paying claims under this section.

116 Notwithstanding the provisions of section 33.080 to the contrary, any moneys remaining in the  
117 fund at the end of the biennium shall not revert to the credit of the general revenue fund. The  
118 state treasurer shall invest moneys in the fund in the same manner as other funds are invested.  
119 Any interest and moneys earned on such investments shall be credited to the fund.

120       11. The division shall promulgate rules to administer this section, including but not  
121 limited to the appointment of claims to multiple claimants, record retention, and procedures for  
122 information requests. Any rule or portion of a rule, as that term is defined in section 536.010,  
123 that is created under the authority delegated in this section shall become effective only if it  
124 complies with and is subject to all of the provisions of chapter 536 and, if applicable, section  
125 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the  
126 general assembly under chapter 536 to review, to delay the effective date, or to disapprove and  
127 annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and  
128 any rule proposed or adopted after June 19, 2009, shall be invalid and void.

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